Title 14. Commerce

Subtitle C. Economic Development

Chapter I. Department of Commerce and Economic Opportunity

Part 531. Angel Investment Credit Program

14 Ill. Adm. Code T. 14, Subt. C, Ch. I, Part 531, Refs & Annos

Currentness

Current through rules published in the Illinois Register dated March 4, 2016.

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14 Ill. Adm. Code 531.10

531.10. Purpose

Currentness

The Department is charged with implementation of the Angel Investment Credit Program in order to provide tax credit awards to claimants to help stimulate job growth and expand capital investment in Illinois.

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14 ILAC § 531.10, 14 IL ADC 531.10

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14 Ill. Adm. Code 531.20

531.20. Definitions

Currentness

The following definitions are applicable to the Angel Investment Credit Program.

"Act" means the Illinois Income Tax Act [35 ILCS 5].

"Angel investment" means a contribution of property, at a risk of loss, to a qualified new business venture as defined in the Act in exchange for stock, a partnership interest, or other ownership interest in the qualified new business venture. For the purposes of this definition, an investment is at risk of loss if its repayment depends entirely upon the success of the business operations of the qualified new business venture.

"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the investment or a related member. [35 ILCS 5/220(a)]

"Claimant" means an applicant certified by the Department who files a claim for a credit under Section 531.50. [35 ILCS 5/220(a)]

"Department" means the Illinois Department of Commerce and Economic Opportunity. [35 ILCS 5/220(a)]

"Employee" means an individual who is a full-time employee and who is employed for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment.

"Full-time equivalent job" means the number of hours worked by multiple employees to equal the number of hours worked by one full-time employee. For purposes of this definition, full-time employee means a person who works a minimum of 35 hours per week for a minimum of 13 consecutive weeks to be counted toward full-time equivalency.

"Qualified new business venture" means a business that is registered with the Department under Section 531.60. [35 ILCS 5/220(a)]

"Related member" means a person that, with respect to the investment, is any one of the following:

An individual, if the individual and the members of the individual's family (as defined in section 318 of the Internal Revenue Code (26 USC 318)) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the outstanding profits, capital, stock, or other ownership interest in the applicant.

A partnership, estate or trust and any partner or beneficiary, if the partnership, estate or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock or other ownership interest in the applicant.

A corporation and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of section 318 of the Internal Revenue Code (26 USC 318), if the applicant and any other related member own, in the aggregate, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code if the corporation and all such related parties own, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the applicant.

A person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code (26 USC 1563(e)), except that, for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in section 1563(e) of the Internal Revenue Code. [35 ILCS 5/220(a)]

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14 ILAC § 531.20, 14 IL ADC 531.20

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14 Ill. Adm. Code 531.30

531.30. Tax Credit Directives

Currentness

- a) For taxable years beginning after December 31, 2010 and ending on or before December 31, 2016, subject to the limitations provided in the Act, a claimant may claim, as a credit against the tax imposed under subsections (a) and (b) of Section 201 of the Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under sections 702 and 704 and subchapter S of the Internal Revenue Code (26 USC 702, 704 and subchapter S). [35 ILCS 5/220(b)]
- b) The maximum amount of an applicant's investment that may be used as the basis for a credit under the Act is \$2,000,000 for each investment made directly in a qualified new business venture. [35 ILCS 5/220(c)]
- c) The aggregate amount of the tax credits that may be claimed under the Act for investments made in qualified new business ventures shall be limited at \$10,000,000 per calendar year. [35 ILCS 5/220(f)]
- d) A claimant may not sell or otherwise transfer a credit award under the Act to another person or entity. [35 ILCS 5/220(g)]

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14 ILAC § 531.30, 14 IL ADC 531.30

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14 Ill. Adm. Code 531.40

531.40. Application Requirements

- a) In order to qualify for a tax credit certificate under the Act, an applicant must adhere to the requirements established by the Department. The Department will provide interested applicants with information upon request. Submittal of an application does not commit the Department to award a tax credit or to pay any costs incurred by the applicant in the preparation of an application.

 b) All applications shall be submitted to the Department. The application shall at a minimum include:

 1) The name, address, email, and telephone number of applicant; key contact and title; applicant Social Security Number or Federal Employer Identification Number (FEIN);

 2) The total amount of aggregate private equity investment in cash or investment received since formation;

 3) Any other provisions or information the Department determines necessary to facilitate the Department's evaluation.
- c) The applicant is responsible for the accuracy of all data, information and documentation submitted to the Department.
- d) Any materials or data made available or received by any agent or employee of the Department shall be deemed confidential and shall not be deemed public records to the extent that the materials or data consist of trade secrets, commercial or financial information regarding the operation of the business conducted by the applicant for, or recipient of,

any tax credit under the Act.

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14 ILAC § 531.40, 14 IL ADC 531.40

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14 Ill. Adm. Code 531.50

531.50. Application Review and Approval

Currentness

- a) The Department shall accept applications after January 1, 2011 and via the procedures established by the Department. Applications will be reviewed in order received at the Department's Springfield office. Application tracking procedures shall be determined and established at the discretion of the Department.
- b) After receipt of an application and upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit. [35 ILCS 5/220(d)]
- c) On a form provided by the Department, the claimant must annually report and certify that claimant's investment has been made and remains in the qualified new business venture. Upon satisfactory review, the Department shall annually certify that the claimant's investment has been made and remains in the qualified new business venture for no less than 3 years. [35 ILCS 5/220(d)]

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14 ILAC § 531.50, 14 IL ADC 531.50

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14 Ill. Adm. Code 531.60

531.60. Qualified New Business Registration Guidelines

- a) A business desiring registration shall submit an application to the Department in each taxable year for which the business desires registration. [35ILCS 5/220(e)]

 b) The Department may register the business only if the business satisfies all of the following conditions:

 1) It has its headquarters in this State;

 2) At least 51% of the employees employed by the business are employed in this State;

 3) It has the potential for increasing jobs in this State, increasing capital investment in this State, or both, and either of the following apply:
 - A) It is principally engaged in innovation in any of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or

B) It is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant or applying proprietary technology;
4) It is not principally engaged in real estate development; insurance; banking; lending; lobbying; political consulting professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants wholesale or retail trade; leisure; hospitality; transportation; or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act [20 ILCS 3855];
5) It has fewer than 100 employees at initial time of registration;
6) It has been in operation in Illinois for not more than 10 consecutive years prior to beginning of the year of certification; and
7) It has received not more than
A) \$10,000,000 in aggregate private equity investment in cash or
B) \$4,000,000 in investments that qualified for tax credits. [35 ILCS 5/220(e)]
c) For purposes of subsection (b), the number of employees of a business shall be determined on a full-time equivalent basis.
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14 ILAC § 531.60, 14 IL ADC 531.60
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14 Ill. Adm. Code 531.70

531.70. Tax Credit Certificate

Currentness
a) Per the requirements of the Act and upon satisfactory compliance with registration guidelines, the Department shall provide the claimant with a tax credit certificate. The certificate shall include the following:
1) The name and Social Security Number or FEIN of the claimant;
2) The date on which the certificate is issued;
3) The tax credit amount; and
4) Any other information the Department determines to be appropriate.
b) Except as provided in Section 531.40(d), information contained in certificates issued under the Act shall be subject to

reporting under Section 531.80.

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calendar year;

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14 Ill. Adm. Code 531.80

531.80. Reporting and Tracking Procedures

Currentness

a) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year. [35 ILCS 5/220(h)]
b) This report must include, for each tax credit certificate awarded:
1) The name of the claimant and the amount of credit awarded or allocated to that claimant;
2) The name and address of the qualified new business venture that received the investment giving rise to the credit and the county in which the qualified new business venture is located; and
3) The date of approval by the Department of the applications for the tax credit certificate. [35 ILCS 5/220(h)(1)]
c) The report must also include:

1) The total number of applicants and amount awarded for tax credit certificates awarded under the Act in the prior

- 2) The total number of applications and amount for which tax credit certificates were issued in the prior calendar year; and
- 3) The total tax credit certificates and amount authorized under the Act for all calendar years. [35 ILCS 5/220(h)(2)]

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14 ILAC § 531.80, 14 IL ADC 531.80

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14 Ill. Adm. Code 531.90

531.90. Noncompliance

Currentness

a) If the Department determines that a claimant who has received a credit under the Act is not complying with the requirements or provisions of the Act, including any investment for which a claimant is allowed a credit under Section 220(b) of the Act and is held by the claimant for less than 3 years, or, if within that period of time, the qualified new business venture is moved from the State of Illinois, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the amount of the credit that the claimant received related to the investment. [35 ILCS 5/220(d)]

b) The Department, in consultation with the Department of Revenue, may adopt other rules and procedures necessary to implement the Act. [35 ILCS 5/220(f)]

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14 ILAC § 531.90, 14 IL ADC 531.90

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